



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF I-A-

DATE: NOV. 14, 2019

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, an athlete and coach in wrestling and martial arts, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner had satisfied only two of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits additional documentation and a brief, arguing that he meets at least three of the ten criteria. The Petitioner also contends that he won a major, internationally recognized award.

Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth two options for satisfying this classification’s initial evidence requirements. A petitioner can either demonstrate a one-time achievement (that is, a major, internationally recognized award), or provide documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i)–(x) (including items such as qualifying awards, published material in certain media, and scholarly articles). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if they are able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)–(x) do not readily apply to the individual’s occupation.

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010).

## II. ANALYSIS

The Petitioner indicate that he was last employed as a [ ] and [ ] coach at the [ ] School of Olympic Reserve in [ ] Uzbekistan.<sup>1</sup> Initially, the Petitioner did not indicate or establish that he has received a major, internationally recognized award. Instead, the Petitioner claimed to have satisfied five of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). In denying the petition, the Director found that the Petitioner only fulfilled two of the initial evidentiary criteria, relating to lesser prizes and artistic display.

On appeal, the Petitioner maintains that he meets five additional criteria, discussed below. We have reviewed all of the evidence in the record, and conclude that it does not show that the Petitioner satisfies the requirements of at least three criteria.

The Petitioner also claims on appeal, for the first time, a one-time achievement in the form of a major, internationally recognized award. We find that the Petitioner has not received such an award.

Given Congress’s intent to restrict this category to “that small percentage of individuals who have risen to the very top of their field of endeavor,” the regulation permitting eligibility based on a one-time achievement must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. *See* H.R. Rep. 101-723, 59 (Sept. 19, 1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at \*6739. Given that the House Report specifically cited to the Nobel Prize as an example of a one-time achievement, examples of one-time awards which enjoy major, international recognition may include the Pulitzer Prize, the Academy Award, and (most relevant for athletics) an Olympic Medal. The regulation is consistent with this legislative history, stating that a one-time achievement must be a *major, internationally recognized* award. 8 C.F.R. § 204.5(h)(3). The selection of Nobel Laureates, the example provided by Congress, is reported in the top media internationally regardless of the nationality of the awardees, is a familiar name to the public at large and includes a large cash prize.

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<sup>1</sup> The Petitioner did not claim any employment in the United States since his arrival in September 2017, although the Petitioner did claim to have competed since then.

While an internationally recognized award could conceivably constitute a one-time achievement without meeting all of those elements, it is clear from the example provided by Congress that the award must be global in scope and internationally recognized in the alien's field as one of the top awards in that field.

In this instance, the Petitioner claims that the Uzbekistan Republican Championship in wrestling is a major, internationally recognized award. The only evidence the Petitioner submits to support this claim is a translation of a four-paragraph newspaper article, indicating that "about 400 participants will be announced from all regions of the country" for the 2016 competition. This indicates that the championship is inherently national, rather than international. The Petitioner has not shown that the Uzbekistan Republican Championship attracts significant attention from the public or the news media outside of Uzbekistan.

*Documentation of the individual's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i)*

The Petitioner submitted sufficient documentary evidence to establish that he won national competitions, and therefore we agree with the Director's finding that the Petitioner satisfies this criterion as an athlete.

We add, however, that he has not satisfied this criterion as a coach. Prizes or awards won as a competitor are not within the Petitioner's field of endeavor as a coach.<sup>2</sup>

The Petitioner did claim one such award as a coach, submitting a translated certificate that reads, in part:

State Committee for Physical Training and Sports of the Republic of Uzbekistan

Children and Youthful Sports School  
Specialized to Sports Single Combat of [redacted]

In connection with totals of 2016  
Coach of [redacted] Department of the School  
[the Petitioner] is awarded on nomination of "the Best Coach."

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<sup>2</sup> The petition must be accompanied by clear evidence that the alien is coming to the United States to continue work in the area of expertise. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States. 8 C.F.R. § 204.5(h)(5). The Petitioner's intentions regarding future employment in the United States are ambiguous at best. He did not provide any detailed plans regarding how he intends to continue to work in the field of athletics. He apparently began working in an unspecified capacity at a martial arts club in [redacted] Pennsylvania, described as "the USA [redacted] Training Center," after he filed the petition, and has continued competing through that club. The Petitioner conducted one master class at a club in [redacted] Pennsylvania, but that club expressed no intention to employ the Petitioner. The Petitioner's identification card from USA [redacted] indicates an affiliation with yet another club in [redacted]. The record does not show how the Petitioner intends to support himself through remunerative employment in the field of martial arts.

While the certificate includes the name of a “State Committee,” the document bears the seal of the school and the signature of the school’s director, indicating it was issued by the school rather than by any national body. From the wording of the translation, we cannot determine whether the Petitioner received an award or simply a nomination. Therefore, the Petitioner has not shown that the document is a prize or award.

We also cannot tell whether the school nominated him for best coach in Uzbekistan, or simply for best coach in the school. For these reasons, the Petitioner has not shown that his “nomination of ‘the Best Coach’” is nationally or internationally recognized.

*Documentation of the individual’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. 8 C.F.R. § 204.5(h)(3)(ii)*

The Director found that the Petitioner did not satisfy this criterion. We agree.

The Petitioner stated: “From 2006 to 2007, I was a member of the Uzbekistan [redacted] Team.” The president of the Uzbekistan [redacted] Federation stated, in a letter, that “Uzbekistan [redacted] Federation Team membership requires outstanding achievements of its members, as judged by nationally or internationally recognized experts in the field of [redacted].” The phrase “outstanding achievements . . . as judged by nationally or internationally recognized experts” appeared four times in the letter, but this does not suffice to establish eligibility. *Cf. Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff’d*, 905 F.2d 41 (2d Cir. 1990) (merely repeating the language of the statute or regulations does not satisfy a petitioner’s burden of proof). The official did not specify the Petitioner’s achievements or identify the experts who judged them.

In a request for evidence (RFE), the Director requested the association’s bylaws (to establish membership requirements) and evidence that the admitting authorities are recognized national or international experts. In response, the Petitioner did not submit the requested evidence or explain its absence. The Petitioner did submit documentation from the Federation, but that documentation did not address the requirements for team membership.

The Petitioner’s attorney of record stated that the Petitioner “has been a member of the Uzbekistan [redacted] Team since 2006.” The unsupported assertions of counsel are not evidence. *See Matter of Obaignena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Here, counsel’s unsupported claim conflicts with the Petitioner’s own assertion that he was a member “from 2006 to 2007,” dates that also appeared in the Federation president’s letter.

The Petitioner’s RFE response also included the new claim that he was a member of “Yakka Kurash Sport Maktabi.” The name of the entity translates to “Single Combat Sports School,” but its director referred to the entity as a “club.” A translated letter from that official indicated that the Beneficiary was a member from 2000 to 2016, and a team captain from 2010 to 2016, and that the Petitioner “was admitted to the club on the basis of his outstanding achievements in the evaluation of nationally and

internationally recognized experts in this sport.” As before, this assertion simply repeats the language of the regulation without elaboration or corroboration.

In the denial notice, the Director found that the Petitioner had not submitted objective evidence to satisfy this criterion. In particular, the Director noted the absence of documentary evidence to establish the requirements for the Petitioner’s claimed memberships.

On appeal, the Petitioner asserts that “a sports team under the umbrella of a federation, certainly fits all the requirements to be considered an association.” The Petitioner does not address or rebut the Director’s finding that the record lacks documentary evidence of membership requirements.

The Petitioner has not satisfied this criterion.

*Published material about the individual in professional or major trade publications or other major media, relating to the individual’s work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.*  
8 C.F.R. § 204.5(h)(3)(iii)

We agree with the Director’s finding that the Petitioner did not satisfy this criterion.

Initially, the Petitioner stated that he had “been featured in . . . multiple major trade news publications relating to [his] achievements in the field of martial arts,” but the Petitioner did not elaborate or establish the existence of “multiple . . . publications.” He submitted a translated copy of an article from an unidentified publication. The article listed some of his championship competitions and indicated that he has a “biography . . . that every sportsman wants.” The article is undated, but it indicated that the Petitioner “is [on a] business trip to [the] United States,” indicating it was published after he entered the United States in September 2017. (The article stated the Petitioner’s age as 33, but he submitted the article less than three months after he reached the age of 32.)

In the RFE, the Director requested further information about the submitted article and the publication in which it appeared. The Director also advised that the one submitted article, by itself, was not sufficient to satisfy the criterion. In response, counsel stated that “the original submission [included] extensive published materials,” although the initial submission contained only one article.

Background information described *Bukhoroi Sharif* as a weekly regional newspaper that, at its peak, circulated “at least 12,500” copies, “[b]ut in recent years this figure has decreased.” The implication is that the previously submitted article appeared in *Bukhoroi Sharif*, but the Petitioner did not expressly make that claim or provide the required publication date for the article.

A translated copy of an article published in *Tasvir* in [ ] 2016 primarily consists of biographical details about the Petitioner. An accompanying letter from the publisher included the claim that “our company is one of the leading places in the media market of Uzbekistan,” but the record contains no objective documentation to support the claims in the letter or establish the paper’s circulation.

The Petitioner also submitted two articles published in *The Davr Times* in mid-2018, after the filing date of the petition. Articles published after the filing date cannot establish eligibility at the time of filing. See 8 C.F.R. § 103.2(b)(1). Also, the Petitioner did not show that *The Davr Times* (published in Brooklyn, New York, with articles in both English and Uzbek) qualifies as major media or otherwise meets the regulatory requirements.

The Director concluded that the Petitioner had not met the criterion. On appeal, the Petitioner states that he “submitted evidence of published material in major sport-related newspapers in his country of origin and beyond.” The record does not show that any of the publications qualify as “major,” or that they are “sport-related,” as opposed to general interest publications with sports sections.

The Petitioner has not satisfied this criterion.

*Evidence of the individual’s participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv)*

The Petitioner claimed to have met this criterion, but the Director did not acknowledge or discuss this claim in the denial notice. The record indicates that the Petitioner served as a judge for the [redacted] Federation of Uzbekistan, but the record lacks evidence (such as official competition rules) to establish the role of the judge. The Petitioner did not show that he actually judged competitors, for example by assigning points or determining winners, rather than merely acting as a referee who enforced the rules and maintained fair play.

Because the record does not explain the nature of his role, the Petitioner has not met his burden of proof to establish that he participated as a judge of the work of others.

*Evidence of the individual’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v)*

In order to satisfy this criterion, a petitioner must establish that not only has he made original contributions, but that they have been of major significance in the field. For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance.

The Petitioner stated:

I believe that my artistic achievements, taken in totality, constitute a contribution of major significance in the field of martial arts, because I was able to win top national and international competitions in martial arts, which are unique and rare achievements. My accomplishments in the field of martial arts earned me the distinguished titles of a Master of Sports in both [redacted] and Wrestling. These are official titles issued by the Government of the Republic of Uzbekistan to those athletes who have made a contribution of major significance to their sport.

Documentation from the [redacted] Federation of Uzbekistan indicated that athletes earn the Master of Sports title by placing highly in territorial or national championship competitions. Winning an athletic competition is already covered under a separate criterion relating to prizes and awards; there is no presumption that winning a competition is intrinsically an original contribution. Rather, a contribution to the Petitioner’s broader field should reach beyond a single event or location to impact or influence others in the field. The Petitioner did not explain how his victories, in particular, have had an impact or influence on other martial arts competitors or coaches, or otherwise constitute original contributions of major significance.

The Petitioner submitted letters from three martial artists in Uzbekistan, asserting that the Beneficiary’s contributions have placed him at the top of his field.

The Director found that the Petitioner had not met this criterion, stating: “It is not enough to enumerate the petitioner’s skill and talents and to have others attest to those talents.” The Director found that the Petitioner had not shown how his achievements have affected the sport as a whole. The Director also noted that the record emphasized the Petitioner’s record as a competitive wrestler and martial artist, rather than as a coach. On appeal, the Petitioner asserts that he submitted “credible testimonials . . . sufficient to satisfy the [regulatory] criterion,” and that the Director arbitrarily refused to give the witness letters sufficient weight.

We disagree with the Petitioner’s contention that the letters meet his burden of proof. First, their origin is in question; the letters include passages with very similar wording, such as the examples below:

[redacted]

[redacted]

[redacted]

[The Petitioner] was awarded the title Master of Sport . . . . These official titles . . . [are] granted only to those athletes who have achieved success in major international tournaments and requires the recommendation of one or more leading national or international experts in the sport in question. The fact that [the Petitioner] received this title clearly demonstrates that he has made a contribution of major significance to martial arts.

[The Petitioner] was awarded the title Master of Sport . . . . These distinguished titles are granted only to those athletes who have achieved success in major international tournaments and requires the recommendation of one or more leading national or international experts in the sport in question. The fact that [the Petitioner] received these titles clearly demonstrates that he has made a contribution of major significance to martial arts.

[The Petitioner] was awarded the title Master of Sport . . . . These official titles . . . [are] granted only to those athletes who have achieved success in major international tournaments and requires the recommendation of one or more leading national or international experts in the sport in question. The fact that [the Petitioner] received these titles clearly demonstrates that he has made a contribution of major significance to martial arts.

These similarities suggest that the language in the letters is not the authors’ own. *Cf. Surinder Singh v. Board of Immigration Appeals*, 438 F.3d 145, 148 (2d Cir. 2006) (upholding an immigration judge’s adverse credibility determination in asylum proceedings based in part on the similarity of some of the affidavits); *Mei Chai Ye v. U.S. Dept. of Justice*, 489 F.3d 517, 519 (2d Cir. 2007) (concluding that an

immigration judge may reasonably infer that when an asylum applicant submits strikingly similar affidavits, the applicant is the common source).

Also, as discussed above, it cannot suffice simply to repeat the language of the regulation by stating that the Petitioner has made contributions of major significance. Two of the letters did not identify the Petitioner's contributions other than to say that he made contributions by winning competitions, and that his memberships are evidence of the significance of those contributions. Other criteria cover prizes and memberships. To assert that evidence under one criterion inherently satisfies another criterion is to undermine the statutory requirement for extensive documentation.

The letter signed by [ ] indicated that the Petitioner "is a rare master of martial arts, one of a few of those who have developed their own unique style." [ ] did not elaborate or show how the Petitioner's style is significant beyond giving him a competitive advantage. The submitted letters do not explain how the Petitioner's title has impacted or influenced other athletes or otherwise contributed to the broader field.

We agree with the Director that the submitted letters do not establish that the Petitioner has made original athletic contributions of major significance in the field.

*Evidence of the display of the individual's work in the field at artistic exhibitions or showcases.*  
8 C.F.R. § 204.5(h)(3)(vii)

The Director concluded "this criterion has been met," without further discussion or elaboration. This finding appears to have been in error, because the Petitioner did not previously claim to have satisfied this criterion. On appeal, the Petitioner accepts the Director's finding but does not explain how the evidence shows the display of his work at artistic exhibitions or showcases. In the absence of any affirmative claim or evidence, we withdraw the Director's finding that the Petitioner has satisfied this criterion.

*Evidence that the individual has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii)

The Petitioner did not initially claim to have met this criterion, but claimed in response to the RFE that he "served as the captain of the . . . sports club 'Yakka Kurash Sport Maktabi,' . . . the leading Team in Uzbekistan in the sport of martial arts." The director of that entity (identified elsewhere as a school) stated that the Beneficiary won several championships while he was a captain there.

The Director did not address this claim in the denial notice. On appeal, the Petitioner asserts that he "served in a critically important role as the captain of the . . . sports club 'Yakka Kurash Sport Maktabi,' an organization of distinguished reputation and the leading Team in Uzbekistan in martial arts." The Petitioner here appears to claim that Yakka Kurash Sport Maktabi is both a sports club and a team, while the record also calls it a school. The record does not clarify how many teams, or even how many different (but related) sports, are at the school. The Petitioner's claimed affiliation with the school spanned from when he was about 14 years old until his early 30s, and his role there would presumably have changed over that significant span of time. We cannot conclude that he would have belonged to the same team for



that entire time; the record shows that the Petitioner has competed in sports that have several different age classes of just a few years each.

The record does not sufficiently establish (1) the nature of the Petitioner's role; (2) whether that role was for the entire school/club, or for one team there; and (3) the distinguished reputation of either the school or any individual team there.

For the above reasons, the Petitioner has not established that he performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought. For the foregoing reasons, the Petitioner has not shown that he qualifies for classification as an individual of extraordinary ability.

### III. CONCLUSION

The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has not met that burden.

**ORDER:** The appeal is dismissed.

Cite as *Matter of I-A-*, ID# 5191063 (AAO Nov. 14, 2019)